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MORTGAGE BANKERS ASSOCIATION

January 22, 2019

Office of the Comptroller of the Currency  
Legislative and Regulatory Activities Division  
400 7th Street SW, Suite 3E-218  
Washington, DC 20219  
Docket ID OCC–2018–0037; RIN 1557–AE56

Federal Deposit Insurance Corporation  
Robert E. Feldman, Executive Secretary  
Attention: Comments/Legal ESS  
550 17th Street NW  
Washington, DC 20429  
RIN 3064–AE96

Board of Governors of the Federal Reserve System  
Ann E. Misback, Secretary  
20th Street and Constitution Avenue NW  
Washington, DC 20551  
Docket No. R–1628; RIN 7100–AF21

**Re: Proposed Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements**

Dear Ladies and Gentlemen:

The Mortgage Bankers Association<sup>1</sup> respectfully submits our comments on proposed changes to applicability thresholds for regulatory capital and liquidity requirements proposed by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (hereinafter “Agencies”).<sup>2</sup>

The proposal would make modifications to the Agencies’ capital and liquidity rules by revising the criteria for determining the prudential standards that apply to large banking organizations operating in the US, specifically, (i) amending the scope of certain aspects of the regulatory capital rule and the **Liquidity Coverage Ratio (LCR) rule**; and (ii) re-proposing the scope of the **proposed Net Stable Funding Ratio (NSFR) rule**. As described in the notice, the proposal “builds on the agencies’ existing practice of tailoring capital and liquidity requirements based on the size, complexity, and overall risk profile of banking organizations.”<sup>3</sup>

Prudential liquidity standards such as the LCR rule and the proposed NSFR involve a balancing of prudential objectives vs. corresponding unintended adverse impacts. On behalf of its members,

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<sup>1</sup> The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,300 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, securitization conduits, life insurance companies, and others in the mortgage lending field. For additional information, visit MBA's Web site: [www.mba.org](http://www.mba.org).

<sup>2</sup> 83 Fed. Reg. 66024 (Dec. 21, 2018).

<sup>3</sup> Id. at 66027.

MBA is concerned about potential impacts on mortgages and lending, including potential adverse impacts on commercial mortgage-backed securities (CMBS) and construction lending. For example, the fact that instruments such as CMBS are not included within the definition of “high quality liquid assets” (HQLA) for purposes of the LCR rule may affect bank appetite for such securities and the LCR rule treatment of disbursements under commercial real estate construction loans could affect bank construction lending.

The magnitude of these potential unintended adverse impacts is a function of two factors:

- The **scope** of institutions to which the liquidity standard applies, and
- The **substance** of the standard.

The proposal would reduce the **scope** of institutions to which the liquidity standards would apply. This would therefore reduce the magnitude of potential unintended adverse impacts and would also provide some welcome relief to affected banking organizations. For those reasons, we applaud the direction of the proposed changes. However, because the largest institutions would still be covered by the full LCR rule, the rule’s potential impacts on CMBS and construction lending would remain significant.

To further reduce unintended adverse impacts of the LCR rule, we recommend that the Agencies also consider making changes to the **substance** of the rule, changes that would better tailor the balance between accomplishing prudential objectives around liquidity and reducing unintended adverse impacts. For example, the Agencies should consider expanding the range of instruments considered to be HQLA, as appropriate, including adding high credit quality CMBS<sup>4</sup> and clarifying the treatment of construction loans.

On a more holistic level, the Agencies should reconsider whether the combination of an LCR rule and the NSFR rule is necessary or appropriate. In this regard, it is noteworthy that the NSFR rule has remained outstanding as a proposal since 2014, and it is treated as such in the proposal. This is implicitly consistent with our view that the NSFR rule may not be necessary or appropriate.

We appreciate this opportunity to comment and we also appreciate the general direction of the proposal to narrow the applicability thresholds for the LCR rule. As we describe above, we encourage the Agencies to move further in that direction by modifying the substance of the LCR rule and rethinking the need for the NSFR rule. Please feel free to contact Bruce Oliver at [boliver@mba.org](mailto:boliver@mba.org) for any questions about these comments.

Sincerely,



Thomas T. Kim  
Senior Vice President, Commercial Real Estate Finance  
Mortgage Bankers Association

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<sup>4</sup> We note that in § 403 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. Congress similarly recognized that it was appropriate to expand the scope of HQLA, specifically by adding municipal obligations that are liquid and readily marketable, and investment grade.